

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

JOHN KIKUYAMA,)
)
)
Plaintiff,)
)
)
vs.) **Case No. 6:13-cv-03408-MDH**
)
)
LINDA SANDERS,)
)
)
Defendant.)

ORDER

Before the Court is Petitioner's Writ of Habeas Corpus challenging his confinement in the United States Medical Center for Federal Prisoners (USMCFP) pursuant to 18 U.S.C. § 4246. Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition was referred to the United States Magistrate Judge for preliminary review under § 636(b), Title 28, United States Code.

The United States Magistrate Judge has completed his preliminary review of the petition for writ of habeas corpus challenging his confinement and has submitted a report and recommendation to the undersigned. (Doc. No. 7).

Objections to the report and recommendation of the United States Magistrate Judge were due by August 11, 2014. On July 31, 2014, Petitioner filed a "Motion to Secure a Copy of the Writ of Habeas Corpus Filed on my Behalf Without My Permission, and Request that the Court Disregard Said Filed Habeas Corpus." (Doc. No. 8). Petitioner alleges the writ was filed without his permission and that petitioner "has never seen the writ that was filed." Petitioner

also requests the “Court disregard the said writ and please have the Clerk of the Court send him a copy of and documents filed in his case in the future...”

Petitioner has also filed a “Motion for Dismissal of Appointed Counsel Federal Public Defender, Ann M. Koszuth, Assit. F.P.D.” (Doc. No. 9). However, Petitioner is not represented in this manner and is proceeding pro se as the plaintiff in this case – not a defendant. As such, Petitioner has not been appointed a public defender and therefore Petitioner’s Motion for Dismissal of Counsel (Doc. No. 9) is denied.

Petitioner has not filed specific objections or exceptions to the report and recommendation of the Magistrate Judge. The Court notes that Petitioner has another matter pending before this Court – *United States of America v. John Kikuyama*, 9-3166-CV-S-MDH. In that matter, the United States has filed a Motion for Conditional Release of defendant moving the Court to order his conditional release under 18 U.S.C. § 4246. This Motion was filed on August 6, 2014 and is not yet ripe for ruling but the government is moving for Petitioner’s conditional release.

A careful review of the files and records in this case establishes Petitioner is not entitled to a writ of habeas corpus as he was properly committed pursuant to the provisions of 18 U.S.C. § 4246. To the extent his petition seeks release from his current commitment the Court notes there is a pending Motion for Conditional Release that has been filed in the other proceeding. However, the Court adopts the Report and Recommendation that there is no basis for release pursuant to the petition for writ presently before the Court. Petitioner’s challenge to his revocation of a prior conditional release and commitment is denied.

It is therefore **ORDERED** that Petitioner’s Motion to Secure a copy of the Writ of Habeas Corpus (Doc. No. 8) is **DENIED**;

It is **FURTHER ORDERED** that Petitioner's Motion for Dismissal of Appointed Counsel is **DENIED**;

It is **FURTHER ORDERED** that the report and recommendation of the United States Magistrate Judge are **ADOPTED**;

It is **FURTHER ORDERED** that all other pending motions are **DENIED** as moot.

IT IS SO ORDERED.

DATED: August 12, 2014

/s/ Douglas Harpool
DOUGLAS HARPOOL
UNITED STATES DISTRICT JUDGE